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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,833	07/17/2002	Peter Schramm	10191/2374	5291
26646	7590	04/25/2006	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			GANEY, STEVEN J	
			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,833

Applicant(s)

SCHRAMM ET AL.

Examiner

Steven J. Ganey

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION


1. In view of the appeal brief filed on November 1, 2004, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:



David A. Scherbel.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 7, 8, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 1010783.

DE 1010783 shows a fuel injector comprising a nozzle body and two retaining flanges 23/24 made in one piece with the nozzle body and covering an angular range of about 45° in a peripheral direction, see Figures 1 and 3.

4. Claims 7, 8, 9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 1396929.

GB 1396929 shows a fuel injector comprising a nozzle body 1 and two retaining flanges 2 made as separate components, see Figure 3 and joined to the nozzle body by integral manner at 3 and friction-locking at 4 and covering an angular range of about 45° in a peripheral direction, see Figures 1-3.

5. Claims 7, 8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kennedy.

Kennedy shows a fuel injector comprising a nozzle body 31 and a retainer 60 comprising two retaining flanges A-62/C-63 or retainer 60' comprising two retaining flanges A/C situated with the nozzle body and covering an angular range of about 45° in a peripheral direction, see Figures 1, 3 and 4 and Figures 7-9, respectively.

6. Claims 7, 8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Hedges.

Hedges shows a fuel injector comprising a nozzle body 10 and a retainer 64 comprising two retaining flanges 66/68 situated with the nozzle body and covering an angular range of about 45° in a peripheral direction, see Figures 1 and 2.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

8. Claims 7, 8 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Girard.

Girard shows a fuel injector comprising a nozzle body 1 and a retainer 9 comprising two retaining flanges 11/12 situated with the nozzle body and covering an angular range of about 45° in a peripheral direction, see Figures 3 and 4.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claim 7 is rejected under 35 U.S.C. 102(e) as being anticipated by Gmelin.

Gmelin shows a fuel injector comprising a nozzle body 5 and a retainer 9 comprising at least one retaining flange 12 situated with the nozzle body, see Figures 1, 2 and 4.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over GB 1396929.

GB 1396929 discloses all the featured elements of the instant invention except for each of the flanges being welded to the nozzle body. Note that GB 1396929 discloses that the flange is peened into groove 3 and being pushed on(i.e. friction-locking manner). The examiner takes the position that welding and peening are equivalent securing means and that welding would perform equally as well in the apparatus of GB 1396929 as does peening. As to each flange being welded note that the other flanges are pushed onto(i.e. friction-locking manner) the nozzle body and it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a weld bead underneath the retaining flange 2 to secure the retaining flange to the nozzle to prevent any rotation and to facilitate securing of the flange in addition to the friction-locking manner.

Response to Arguments

13. Applicant's arguments with respect to claims 7-12 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven J. Ganey whose telephone number is (571) 272-4899. The examiner can normally be reached on Monday, Tuesday, Wednesday, and Thursday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel, can be reached on (571) 272-4919. The fax phone number for this Group is (571) 273-8300.

sjg

4/20/06


STEVEN J. GANEY
PRIMARY EXAMINER
4/20/06